



ARKANSAS JUDICIARY

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## Rule 21. Misjoinder And Non-Joinder Of Parties.

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and upon such terms as are just. Any claim against a party may be severed and proceeded with separately.

Reporter's Notes to Rule 21: - 1. Rule 21 is identical to FRCP 21. There was no comparable provision under prior Arkansas law and a defect in parties was generally raised by demurrer where the defect appeared on the face of the complaint and by answer where the defect was not so evident. Under prior law, a defect in parties was ground for dismissal of the cause whereas under this rule, the cause is not dismissed, but rather the defect is simply cured by adding or striking parties upon motion of a party or by the court on its own motion.

2. Rule 21 should have no appreciable effect on Arkansas law. A defect in parties was non-fatal under prior Arkansas law in that it could be waived. *Province v. Dean*, 223 Ark. 508, 266 S.W.2d 812 (1954). A defect in parties remains non-fatal under this rule. This rule does, however, confer upon the trial court additional discretion to cure a misjoinder or non-joinder on its own motion.

### **Associated Court Rules:**

Rules of Civil Procedure

### **Group Title:**

IV. Parties

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